

# Senate Amendment 3172

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1 1 Amend Senate File 372 as follows:  
1 2 #1. By striking everything after the enacting  
1 3 clause and inserting the following:  
1 4 <DIVISION I  
1 5 OPEN FEEDLOT OPERATIONS  
1 6 SUBCHAPTER I  
1 7 GENERAL PROVISIONS  
1 8 Section 1. NEW SECTION. 459A.101 TITLE.  
1 9 This chapter shall be known and may be cited as the  
1 10 "Animal Agriculture Compliance Act for Open Feedlot  
1 11 Operations".  
1 12 Sec. 2. NEW SECTION. 459A.102 DEFINITIONS.  
1 13 1. "Alternative technology system" or "alternative  
1 14 system" means a system for open feedlot effluent  
1 15 control as provided in section 459A.303.  
1 16 2. "Animal" means the same as defined in section  
1 17 459.102.  
1 18 3. "Animal feeding operation" means the same as  
1 19 defined in section 459.102.  
1 20 4. "Animal unit" means the same as defined in  
1 21 section 459.102.  
1 22 5. "Animal unit capacity" means a measurement used  
1 23 to determine the maximum number of animal units that  
1 24 may be maintained as part of an open feedlot  
1 25 operation.  
1 26 6. "ASTM international" means the American society  
1 27 for testing and materials international.  
1 28 7. "Commission" means the environmental protection  
1 29 commission created pursuant to section 455A.6.  
1 30 8. "Department" means the department of natural  
1 31 resources.  
1 32 9. "Document" means any form required to be  
1 33 processed by the department under this chapter,  
1 34 including but not limited to applications for permits  
1 35 or related materials as provided in section 459A.205,  
1 36 soils and hydrogeologic reports as provided in section  
1 37 459A.206, construction certifications as provided in  
1 38 section 459A.207, nutrient management plans as  
1 39 provided in section 459A.208, and notices required  
1 40 under this chapter.  
1 41 10. "Nutrient management plan" or "plan" means a  
1 42 plan which provides for the management of open feedlot  
1 43 effluent, including the application of effluent as  
1 44 provided in section 459A.208.  
1 45 11. "Open feedlot" means a lot, yard, corral,  
1 46 building, or other area used to house animals in  
1 47 conjunction with an open feedlot operation.  
1 48 12. "Open feedlot effluent" or "effluent" means a  
1 49 combination of manure, precipitation-induced runoff,  
1 50 or other runoff from an open feedlot before its  
2 1 settleable solids have been removed.  
2 2 13. "Open feedlot operation" or "operation" means  
2 3 an unroofed or partially roofed animal feeding  
2 4 operation if crop, vegetation, or forage growth or  
2 5 residue cover is not maintained as part of the animal  
2 6 feeding operation during the period that animals are  
2 7 confined in the animal feeding operation.  
2 8 14. "Open feedlot operation structure" means an  
2 9 open feedlot, settled open feedlot effluent basin, a  
2 10 solids settling facility, or an alternative technology  
2 11 system. "Open feedlot operation structure" does not  
2 12 include a manure storage structure as defined in  
2 13 section 459.102.  
2 14 15. "Operating permit" means a permit which  
2 15 regulates the operation of an open feedlot operation  
2 16 as issued by the department or the United States  
2 17 environmental protection agency, including as provided  
2 18 in state law or pursuant to the federal Water  
2 19 Pollution Control Act, Title 33, U.S.C., ch. 126, as  
2 20 amended, and 40 C.F.R., pt. 124.  
2 21 16. "Research college" means an accredited public  
2 22 or private college or university, including but not  
2 23 limited to a university under the control of the state  
2 24 board of regents as provided in chapter 262, or a

2 25 community college under the jurisdiction of a board of  
2 26 directors for a merged area as provided in chapter  
2 27 260C, if the college or university performs research  
2 28 or experimental activities regarding animal  
2 29 agriculture or agronomy.  
2 30 17. "Settled open feedlot effluent" or "settled  
2 31 effluent" means a combination of manure,  
2 32 precipitation=induced runoff, or other runoff  
2 33 originating from an open feedlot after its settleable  
2 34 solids have been removed.  
2 35 18. "Settleable solids" or "solids" means that  
2 36 portion of open feedlot effluent that meets all of the  
2 37 following requirements:  
2 38 a. The solids do not flow perceptibly under  
2 39 pressure.  
2 40 b. The solids are not capable of being transported  
2 41 through a mechanical pumping device designed to move a  
2 42 liquid.  
2 43 c. The constituent molecules of the solids do not  
2 44 flow freely among themselves but do show the tendency  
2 45 to separate under stress.  
2 46 19. "Settled open feedlot effluent basin" or  
2 47 "basin" means an impoundment which is part of an open  
2 48 feedlot operation, if the primary function of the  
2 49 impoundment is to collect and store settled open  
2 50 feedlot effluent.  
3 1 20. "Solids settling facility" means a basin,  
3 2 terrace, diversion, or other structure or solids  
3 3 removal method which is part of an open feedlot  
3 4 operation and which is designed and operated to remove  
3 5 settleable solids from open feedlot effluent. A  
3 6 "solids settling facility" does not include a basin,  
3 7 terrace, diversion, or other structure or solids  
3 8 removal method which retains the liquid portion of  
3 9 open feedlot effluent for more than seven consecutive  
3 10 days following a precipitation event.  
3 11 21. "Water of the state" means the same as defined  
3 12 in section 455B.171.  
3 13 22. "Waters of the United States" means the same  
3 14 as defined in 40 C.F.R., pt. 122, } 2, as that section  
3 15 exists on the effective date of this Act.  
3 16 Sec. 3. NEW SECTION. 459A.103 SPECIAL TERMS.  
3 17 For purposes of this chapter, all of the following  
3 18 shall apply:  
3 19 1. a. Two or more open feedlot operations under  
3 20 common ownership or common management are deemed to be  
3 21 a single open feedlot operation if they are adjacent  
3 22 or utilize a common area or system for open feedlot  
3 23 effluent disposal.  
3 24 b. For purposes of determining whether two or more  
3 25 open feedlot operations are adjacent, all of the  
3 26 following shall apply:  
3 27 (1) At least one open feedlot operation structure  
3 28 must be constructed on or after July 17, 2002.  
3 29 (2) An open feedlot operation structure which is  
3 30 part of one open feedlot operation is separated by  
3 31 less than one thousand two hundred fifty feet from an  
3 32 open feedlot operation structure which is part of the  
3 33 other open feedlot operation.  
3 34 c. For purposes of determining whether two or more  
3 35 open feedlot operations are under common ownership, a  
3 36 person must hold an interest in each of the open  
3 37 feedlot operations as any of the following:  
3 38 (1) A sole proprietor.  
3 39 (2) A joint tenant or tenant in common.  
3 40 (3) A holder of a majority equity interest in a  
3 41 business association as defined in section 202B.102,  
3 42 including but not limited to as a shareholder,  
3 43 partner, member, or beneficiary.  
3 44 An interest in the open feedlot operation under  
3 45 subparagraph (2) or (3) which is held directly or  
3 46 indirectly by the person's spouse or dependent child  
3 47 shall be attributed to the person.  
3 48 d. For purposes of determining whether two or more  
3 49 open feedlot operations are under common management, a  
3 50 person must have significant control of the management  
4 1 of the day-to-day operations of each of the open  
4 2 feedlot operations. Common management does not  
4 3 include control over a contract livestock facility by  
4 4 a contractor, as defined in section 202.1.  
4 5 2. An open feedlot operation structure is

4 6 "constructed" when any of the following occurs:  
4 7 a. Excavation commences for a proposed open  
4 8 feedlot operation structure or proposed expansion of  
4 9 an existing open feedlot operation structure.  
4 10 b. Forms for concrete are installed for a proposed  
4 11 open feedlot operation structure or the proposed  
4 12 expansion of an existing open feedlot operation  
4 13 structure.  
4 14 c. Piping for the movement of open feedlot  
4 15 effluent is installed within or between open feedlot  
4 16 operation structures as proposed or proposed to be  
4 17 expanded.  
4 18 3. In calculating the animal unit capacity of an  
4 19 open feedlot operation, the animal unit capacity shall  
4 20 not include the animal unit capacity of any  
4 21 confinement feeding operation building as defined in  
4 22 section 459.102, which is part of the open feedlot  
4 23 operation.  
4 24 4. An open feedlot operation structure is  
4 25 abandoned if the open feedlot operation structure has  
4 26 been razed, removed from the site of an open feedlot  
4 27 operation, filled in with earth, or converted to uses  
4 28 other than an open feedlot operation structure so that  
4 29 it cannot be used as an open feedlot operation  
4 30 structure without significant reconstruction.  
4 31 5. All distances between locations or objects  
4 32 provided in this chapter shall be measured in feet  
4 33 from their closest points.  
4 34 6. The regulation of open feedlot effluent shall  
4 35 be construed as also regulating settled open feedlot  
4 36 effluent and solids.  
4 37 7. "Seasonal high=water table" means the seasonal  
4 38 high=water table as determined by a professional  
4 39 engineer pursuant to the following requirements:  
4 40 a. The seasonal high=water table shall be  
4 41 determined by evaluating soil profile characteristics  
4 42 such as color and mottling from soil corings, soil  
4 43 test pits, or other soil profile evaluation methods,  
4 44 water level data from soil corings or other sources,  
4 45 and other pertinent information.  
4 46 b. If a drainage tile line to artificially lower  
4 47 the seasonal high=water table is installed as required  
4 48 by this section, the level to which the seasonal high=  
4 49 water table will be lowered will be the seasonal high=  
4 50 water table.

5 1 Sec. 4. NEW SECTION. 459A.104 GENERAL AUTHORITY  
5 2 == COMMISSION AND DEPARTMENT == PURPOSE == COMPLIANCE.

5 3 1. The commission shall establish by rule adopted  
5 4 pursuant to chapter 17A, requirements relating to the  
5 5 construction, including expansion, or operation of  
5 6 open feedlot operations, including related open  
5 7 feedlot operation structures.

5 8 2. Any provision referring generally to compliance  
5 9 with the requirements of this chapter as applied to  
5 10 open feedlot operations also includes compliance with  
5 11 requirements in rules adopted by the commission  
5 12 pursuant to this section, orders issued by the  
5 13 department as authorized under this chapter, and the  
5 14 terms and conditions applicable to licenses,  
5 15 certifications, permits, or nutrient management plans  
5 16 required under this chapter.

5 17 3. The purpose of this chapter is to provide  
5 18 requirements relating to the construction, including  
5 19 the expansion, and operation of open feedlot  
5 20 operations, and the control of open feedlot effluent,  
5 21 which shall be construed to supplement applicable  
5 22 provisions of chapter 459. If there is a conflict  
5 23 between the provisions of this chapter and chapter  
5 24 459, the provisions of this chapter shall prevail.

5 25 Sec. 5. NEW SECTION. 459A.105 EXCEPTION TO  
5 26 REGULATION.

5 27 1. Except as provided in subsection 2, the  
5 28 requirements of this chapter which regulate open  
5 29 feedlot operations, including rules adopted by the  
5 30 department pursuant to section 459A.104, shall not  
5 31 apply to research activities and experiments performed  
5 32 under the authority and regulations of a research  
5 33 college, if the research activities and experiments  
5 34 relate to an open feedlot operation structure or the  
5 35 disposal or treatment of effluent originating from an  
5 36 open feedlot operation.

5 37 2. The requirements of section 459A.410, including  
5 38 rules adopted by the department under that section,  
5 39 apply to research activities and experiments performed  
5 40 under the authority and regulations of a research  
5 41 college.

5 42 SUBCHAPTER II  
5 43 DOCUMENTATION

5 44 Sec. 6. NEW SECTION. 459A.201 DOCUMENT  
5 45 PROCESSING REQUIREMENTS.

5 46 1. The department shall adopt and promulgate forms  
5 47 required to be completed in order to comply with this  
5 48 chapter, including forms for documents that the  
5 49 department shall make available on the internet in the  
5 50 same manner as provided in section 459.302.

6 1 2. a. The department shall provide for procedures  
6 2 for the receipt, filing, processing, and return of  
6 3 documents in an electronic format in the same manner  
6 4 as provided in section 459.302. The department shall  
6 5 provide for authentication of the documents that may  
6 6 include electronic signatures as provided in chapter  
6 7 554D.

6 8 b. The department shall to every extent feasible  
6 9 provide for the processing of documents required under  
6 10 this subchapter using electronic systems in the same  
6 11 manner as required in section 459.302.

6 12 3. a. The department shall approve or disapprove  
6 13 an application for a construction permit as provided  
6 14 in section 459A.205 within sixty days after receiving  
6 15 the permit application. However, the applicant may  
6 16 deliver a notice requesting a continuance. Upon  
6 17 receipt of a notice, the time required for the  
6 18 department to act upon the application shall be  
6 19 suspended for the period provided in the notice, but  
6 20 for not more than thirty days after the department's  
6 21 receipt of the notice. The applicant may submit more  
6 22 than one notice. However, the department may provide  
6 23 that an application is terminated if no action is  
6 24 required by the department for one year following  
6 25 delivery of the application to the department. The  
6 26 department may also provide for a continuance when it  
6 27 considers the application. The department shall  
6 28 provide notice to the applicant of the continuance.  
6 29 The time required for the department to act upon the  
6 30 application shall be suspended for the period provided  
6 31 in the notice, but for not more than thirty days.  
6 32 However, the department shall not provide for more  
6 33 than one continuance.

6 34 b. A nutrient management plan as provided in  
6 35 section 459A.208 shall be approved or disapproved as  
6 36 part of a construction permit application pursuant to  
6 37 section 459A.205. If the nutrient management plan is  
6 38 not part of an application for a construction permit,  
6 39 the nutrient management plan shall be approved or  
6 40 disapproved within sixty days from the date that the  
6 41 department receives the nutrient management plan.

6 42 Sec. 7. NEW SECTION. 459A.205 PERMIT  
6 43 REQUIREMENTS == SETTLED OPEN FEEDLOT EFFLUENT BASINS  
6 44 AND ALTERNATIVE TECHNOLOGY SYSTEMS.

6 45 1. The department shall approve or disapprove  
6 46 applications for permits for the construction,  
6 47 including the expansion, of settled open feedlot  
6 48 effluent basins and alternative technology systems, as  
6 49 provided in this chapter. The department's decision  
6 50 to approve or disapprove a permit for the construction  
7 1 of a basin or alternative system shall be based on  
7 2 whether the application is submitted according to  
7 3 procedures and standards required by this chapter. A  
7 4 person shall not begin construction of a basin or  
7 5 alternative system requiring a permit under this  
7 6 section, unless the department first approves the  
7 7 person's application and issues to the person a  
7 8 construction permit.

7 9 2. The department shall issue a construction  
7 10 permit upon approval of an application. The  
7 11 department shall approve the application regardless of  
7 12 whether the applicant is required to be issued a  
7 13 construction permit.

7 14 3. The department shall not approve an application  
7 15 for a construction permit unless the applicant submits  
7 16 all of the following:

7 17 a. A nutrient management plan as provided in

7 18 section 459A.208.

7 19 b. An engineering report, construction plans, and  
7 20 specifications prepared by a licensed professional  
7 21 engineer or the natural resources conservation service  
7 22 of the United States department of agriculture  
7 23 certifying that the construction of the settled open  
7 24 feedlot effluent basin or alternative technology  
7 25 system complies with the construction design standards  
7 26 required in this chapter.

7 27 4. An open feedlot operation must be issued a  
7 28 construction permit prior to any of the following:

7 29 a. The construction, including expansion, of a  
7 30 settled open feedlot effluent basin or alternative  
7 31 technology system if the open feedlot operation is  
7 32 required to be issued an operating permit.

7 33 b. The department has previously issued the open  
7 34 feedlot operation a construction permit and any of the  
7 35 following applies:

7 36 (1) The animal unit capacity of the open feedlot  
7 37 operation will be increased to more than the animal  
7 38 unit capacity approved by the department in the  
7 39 previous construction permit.

7 40 (2) The volume of open feedlot effluent stored at  
7 41 the open feedlot operation would be more than the  
7 42 volume approved by the department in the previous  
7 43 construction permit.

7 44 (3) The open feedlot operation was discontinued  
7 45 for twenty-four months or more and the animal unit  
7 46 capacity would be one thousand animal units or more.

7 47 5. Prior to submitting an application for a  
7 48 construction permit the applicant may submit a  
7 49 conceptual design and site investigation report to the  
7 50 department for review and comment.

8 1 6. The application for the construction permit  
8 2 shall include all of the following:

8 3 a. The name of the owner of the open feedlot  
8 4 operation and the name of the open feedlot operation,  
8 5 including a mailing address and telephone number for  
8 6 the owner and the operation.

8 7 b. The name of the contact person for the open  
8 8 feedlot operation, including the person's mailing  
8 9 address and telephone number.

8 10 c. The location of the open feedlot operation.

8 11 d. A statement providing that the application is  
8 12 for any of the following:

8 13 (1) The construction or expansion of a settled  
8 14 open feedlot effluent basin or alternative technology  
8 15 system for an existing open feedlot operation which is  
8 16 not expanding.

8 17 (2) The construction or expansion of a settled  
8 18 open feedlot effluent basin or alternative technology  
8 19 system for an existing open feedlot operation which is  
8 20 expanding.

8 21 (3) The construction of a settled open feedlot  
8 22 effluent basin or alternative technology system for a  
8 23 proposed new open feedlot operation.

8 24 e. The animal unit capacity for each animal  
8 25 species in the open feedlot operation before and after  
8 26 the proposed construction.

8 27 f. An engineering report, construction plans, and  
8 28 specifications prepared by a licensed professional  
8 29 engineer or by the United States natural resource  
8 30 conservation service, for the settled open feedlot  
8 31 operation effluent basin or alternative technology  
8 32 system.

8 33 g. A soils and hydrogeologic report of the site,  
8 34 as required in section 459A.206.

8 35 h. Information, including but not limited to maps,  
8 36 drawings, and aerial photos that clearly show the  
8 37 location of all of the following:

8 38 (1) The open feedlot operation and all existing  
8 39 and proposed settled open feedlot effluent basins or  
8 40 alternative technology systems, clean water  
8 41 diversions, and other pertinent features or  
8 42 structures.

8 43 (2) Any other open feedlot operation under common  
8 44 ownership or common management and located within one  
8 45 thousand two hundred fifty feet of the open feedlot  
8 46 operation.

8 47 (3) A public water supply system as defined in  
8 48 section 455B.171 or a drinking water well which is

8 49 located within a distance from the operation as  
8 50 prescribed by rules adopted by the department.

9 1 i. For an open feedlot operation implementing an  
9 2 alternative technology system as provided in section  
9 3 459A.303, the applicant shall submit all of the  
9 4 following:

9 5 (1) Information showing that the proposed open  
9 6 feedlot operation meets criteria for siting as  
9 7 established by rules adopted by the department.  
9 8 However, if the site does not meet the criteria, the  
9 9 information shall show substantially equivalent  
9 10 alternatives to meeting such criteria.

9 11 (2) The results of predictive computer modeling  
9 12 for the proposed alternative technology system to  
9 13 determine suitability of the proposed site for the  
9 14 system and to predict performance of the alternative  
9 15 technology system as compared to the use of a settled  
9 16 open feedlot effluent basin.

9 17 (3) A conceptual design of the proposed  
9 18 alternative technology system, as developed by a  
9 19 licensed engineer.

9 20 7. a. Except as provided in paragraph "b", a  
9 21 construction permit for an open feedlot operation  
9 22 expires as follows:

9 23 (1) If construction does not begin within one year  
9 24 after the date the construction permit is issued.  
9 25 (2) If construction is not completed within three  
9 26 years after the date the construction permit is  
9 27 issued.

9 28 b. If requested, the department may grant an  
9 29 extension of time to begin or complete construction  
9 30 upon a showing of just cause by the construction  
9 31 permit applicant.

9 32 8. The department may suspend or revoke a  
9 33 construction permit, modify the terms or conditions of  
9 34 a construction permit, or disapprove a request to  
9 35 extend the time to begin or complete construction as  
9 36 provided in this section, if it determines that the  
9 37 operation of the open feedlot operation constitutes a  
9 38 clear, present, and impending danger to public health  
9 39 or the environment.

9 40 9. This section does not require a person to be  
9 41 issued a permit to construct a settled open feedlot  
9 42 effluent basin or alternative technology system if the  
9 43 basin or system is part of an open feedlot operation  
9 44 which is owned by a research college conducting  
9 45 research activities as provided in section 459A.105.

9 46 Sec. 8. NEW SECTION. 459A.206 SETTLED OPEN  
9 47 FEEDLOT EFFLUENT BASINS == SOILS AND HYDROGEOLOGIC  
9 48 REPORT.

9 49 A settled open feedlot effluent basin required to  
9 50 be constructed pursuant to a construction permit  
10 1 issued pursuant to section 459A.205 shall meet design  
10 2 standards as required by a soils and hydrogeologic  
10 3 report.

10 4 The report shall be submitted with the construction  
10 5 permit application as provided in section 459A.205.  
10 6 The report shall include all of the following:

10 7 1. A description of the steps to determine the  
10 8 soils and hydrogeologic conditions at the proposed  
10 9 construction site, a description of the geologic units  
10 10 encountered, and a description of the effects of the  
10 11 soil and groundwater elevation and direction of flow  
10 12 on the construction and operation of the basin.

10 13 2. The subsurface soil classification of the site.  
10 14 A subsurface soil classification shall be based on  
10 15 ASTM international designation D=2487=92 or D=2488=90.

10 16 3. The results of at least three soil corings  
10 17 reflecting the continuous soil profile taken for each  
10 18 basin. The soil corings shall be taken and used in  
10 19 determining subsurface soil characteristics and  
10 20 groundwater elevation and direction of flow of the  
10 21 proposed site for construction. The soil corings  
10 22 shall be taken as follows:

10 23 a. By a qualified person ordinarily engaged in the  
10 24 practice of taking soil cores and in performing soil  
10 25 testing.

10 26 b. At locations that reflect the continuous soil  
10 27 profile conditions existing within the area of the  
10 28 proposed basin, including conditions found near the  
10 29 corners and the deepest point of the proposed basin.

10 30 The soil corings shall be taken to a minimum depth of  
10 31 ten feet below the bottom elevation of the basin.  
10 32 c. By a method such as hollow stem auger or other  
10 33 method that identifies the continuous soil profile and  
10 34 does not result in the mixing of soil layers.  
10 35 Sec. 9. NEW SECTION. 459A.207 CONSTRUCTION  
10 36 CERTIFICATION.  
10 37 1. The owner of an open feedlot operation who is  
10 38 issued a construction permit for a settled open  
10 39 feedlot effluent basin as provided in section 459A.205  
10 40 after the effective date of this Act shall submit to  
10 41 the department a construction certification from a  
10 42 licensed professional engineer certifying all of the  
10 43 following:  
10 44 a. The basin was constructed in accordance with  
10 45 the design plans submitted to the department as part  
10 46 of an application for a construction permit pursuant  
10 47 to section 459A.205. If the actual construction  
10 48 deviates from the approved design plans, the  
10 49 construction certification shall identify all changes  
10 50 and certify that the changes were consistent with all  
11 1 applicable standards of this section.  
11 2 b. The basin was inspected by the licensed  
11 3 professional engineer after completion of construction  
11 4 and before commencement of operation.  
11 5 2. A written record of an investigation for  
11 6 drainage tile lines, including the findings of the  
11 7 investigation and actions taken to comply with  
11 8 subchapter III, shall be submitted as part of the  
11 9 construction certification.  
11 10 Sec. 10. NEW SECTION. 459A.208 NUTRIENT  
11 11 MANAGEMENT PLAN == REQUIREMENTS.  
11 12 1. The owner of an open feedlot operation which  
11 13 has an animal unit capacity of one thousand animal  
11 14 units or more or which is required to be issued an  
11 15 operating permit shall develop and implement a  
11 16 nutrient management plan meeting the requirements of  
11 17 this section by December 31, 2006.  
11 18 2. Not more than one open feedlot operation shall  
11 19 be covered by a single nutrient management plan.  
11 20 3. A person shall not remove open feedlot effluent  
11 21 from an open feedlot operation structure which is part  
11 22 of an open feedlot operation for which a nutrient  
11 23 management plan is required under this section, unless  
11 24 the department approves a nutrient management plan as  
11 25 required in this section. The department may adopt  
11 26 rules allowing a person to remove open feedlot  
11 27 effluent from an open feedlot operation structure  
11 28 until the nutrient management plan is approved or  
11 29 disapproved by the department according to terms and  
11 30 conditions required by rules adopted by the  
11 31 department.  
11 32 4. The department shall not approve an application  
11 33 for a permit to construct a settled open feedlot  
11 34 effluent basin unless the owner of the open feedlot  
11 35 operation applying for approval submits a nutrient  
11 36 management plan together with the application for the  
11 37 construction permit as provided in section 459A.205.  
11 38 The owner shall also submit proof that the owner has  
11 39 published a notice for public comment as provided in  
11 40 this section. The department shall approve or  
11 41 disapprove the nutrient management plan as provided in  
11 42 section 459A.201. A nutrient management plan using an  
11 43 alternative technology system shall not include  
11 44 requirements for settled effluent that enters the  
11 45 alternative technology system.  
11 46 5. Prior to approving or disapproving a nutrient  
11 47 management plan as required in this section, the  
11 48 department may receive comments exclusively to  
11 49 determine whether the nutrient management plan is  
11 50 submitted according to procedures required by the  
12 1 department and that the nutrient management plan  
12 2 complies with the provisions of this chapter.  
12 3 a. The owner of the open feedlot operation shall  
12 4 publish a notice for public comment in a newspaper  
12 5 having a general circulation in the county where the  
12 6 open feedlot operation is or is proposed to be located  
12 7 and in the county where open feedlot effluent, which  
12 8 originates from the open feedlot operation, may be  
12 9 applied under the terms and conditions of the nutrient  
12 10 management plan.

12 11 b. The notice for public comment shall include all  
12 12 of the following:

12 13 (1) The name of the owner of the open feedlot  
12 14 operation submitting the nutrient management plan.

12 15 (2) The name of the township where the open  
12 16 feedlot operation is or is proposed to be located and  
12 17 the name of the township where open feedlot effluent  
12 18 originating from the open feedlot operation may be  
12 19 applied.

12 20 (3) The animal unit capacity of the open feedlot  
12 21 operation.

12 22 (4) The time when and the place where the nutrient  
12 23 management plan may be examined as provided in section  
12 24 22.2.

12 25 (5) Procedures for providing public comment to the  
12 26 department. The notice shall also include procedures  
12 27 for requesting a public hearing conducted by the  
12 28 department. The department is not required to conduct  
12 29 a public hearing if it does not receive a request for  
12 30 the public hearing within ten days after the first  
12 31 publication of the notice for public comment as  
12 32 provided in this subsection. If such a request is  
12 33 received, the public hearing must be conducted within  
12 34 thirty days after the first date that the notice for  
12 35 public comment was published.

12 36 (6) A statement that a person may acquire  
12 37 information relevant to making comments under this  
12 38 subsection by accessing the department's internet  
12 39 website. The notice for public comment shall include  
12 40 the address of the department's internet website as  
12 41 required by the department.

12 42 c. The department shall maintain an internet  
12 43 website where persons may access information relevant  
12 44 to making comments under this subsection. The  
12 45 department may include an electronic version of the  
12 46 nutrient management plan as provided in section  
12 47 459A.201. The department shall include information  
12 48 regarding the time when, the place where, and the  
12 49 manner in which persons may participate in a public  
12 50 hearing as provided in this subsection.

13 1 6. A nutrient management plan must be  
13 2 authenticated by the owner of the animal feeding  
13 3 operation as required by the department in accordance  
13 4 with section 459A.201.

13 5 7. A nutrient management plan shall include all of  
13 6 the following:

13 7 a. Restrictions on the application of open feedlot  
13 8 effluent based on all of the following:

13 9 (1) Calculations necessary to determine the land  
13 10 area required for the application of open feedlot  
13 11 effluent from an open feedlot operation based on  
13 12 nitrogen use levels in order to obtain optimum crop  
13 13 yields according to a crop schedule specified in the  
13 14 nutrient management plan, and according to  
13 15 requirements adopted by the department.

13 16 (2) A phosphorus index established pursuant to  
13 17 section 459.312.

13 18 b. Information relating to the application of the  
13 19 open feedlot effluent, including all of the following:

13 20 (1) Nutrient levels of the open feedlot effluent.

13 21 (2) Application methods, the timing of the  
13 22 application, and the location of the land where the  
13 23 application occurs.

13 24 c. If the application is on land other than land  
13 25 owned or rented for crop production by the owner of  
13 26 the open feedlot operation, the plan shall include a  
13 27 copy of each written agreement executed by the owner  
13 28 of the open feedlot operation and the landowner or the  
13 29 person renting the land for crop production where the  
13 30 open feedlot effluent may be applied.

13 31 d. An estimate of the open feedlot effluent volume  
13 32 or weight produced by the open feedlot operation.

13 33 e. Information which shows all of the following:

13 34 (1) There is adequate storage for open feedlot  
13 35 effluent, including procedures to ensure proper  
13 36 operation and maintenance of the storage structures.

13 37 (2) The proper management of animal mortalities to  
13 38 ensure that animals are not disposed of in an open  
13 39 feedlot operation structure or a treatment system that  
13 40 is not specifically designed to treat animal  
13 41 mortalities.

13 42 (3) Surface drainage prior to contact with an open  
13 43 feedlot structure is diverted, as appropriate, from  
13 44 the open feedlot operation.

13 45 (4) Animals kept in the open feedlot operation do  
13 46 not have direct contact with any waters of the United  
13 47 States.

13 48 (5) Chemicals or other contaminants handled on=  
13 49 site are not disposed of in an open feedlot operation  
13 50 structure or a treatment system that is not  
14 1 specifically designed to treat such chemicals or  
14 2 contaminants.

14 3 8. If an open feedlot operation uses an  
14 4 alternative technology system as provided in section  
14 5 459A.303, the nutrient management plan is not required  
14 6 to provide for settled effluent that enters the  
14 7 alternative technology system.

14 8 9. The owner of an open feedlot operation who is  
14 9 required to develop and implement a nutrient  
14 10 management plan shall maintain a current nutrient  
14 11 management plan and maintain records sufficient to  
14 12 demonstrate compliance with the nutrient management  
14 13 plan.

#### 14 14 SUBCHAPTER III

#### 14 15 DESIGN STANDARDS AND CONSTRUCTION REQUIREMENTS

14 16 Sec. 11. NEW SECTION. 459A.301 SETTLED OPEN  
14 17 FEEDLOT EFFLUENT BASINS == CONSTRUCTION DESIGN  
14 18 STANDARDS == RULES.

14 19 If the department requires that a settled open  
14 20 feedlot effluent basin be constructed according to  
14 21 construction design standards, regardless of whether  
14 22 the department requires the owner to be issued a  
14 23 construction permit under section 459A.205, any  
14 24 construction design standards for the basin shall be  
14 25 established by rules as provided in chapter 17A that  
14 26 exclusively account for special design characteristics  
14 27 of open feedlot operations and related basins,  
14 28 including but not limited to the dilute composition of  
14 29 settled open feedlot effluent as collected and stored  
14 30 in the basins.

14 31 Sec. 12. NEW SECTION. 459A.302 SETTLED OPEN  
14 32 FEEDLOT EFFLUENT BASINS == CONSTRUCTION REQUIREMENTS.

14 33 A settled open feedlot effluent basin required to  
14 34 be constructed pursuant to a construction permit  
14 35 issued pursuant to section 459A.205 shall meet all of  
14 36 the following requirements:

14 37 1. a. Prior to constructing a settled open  
14 38 feedlot effluent basin, the site for the basin shall  
14 39 be investigated for a drainage tile line by the owner  
14 40 of the open feedlot operation. The investigation  
14 41 shall be made by digging a core trench to a depth of  
14 42 at least six feet deep from ground level at the  
14 43 projected center of the berm of the basin. If a  
14 44 drainage tile line is discovered, one of the following  
14 45 solutions shall be implemented:

14 46 (1) The drainage tile line shall be rerouted  
14 47 around the perimeter of the basin at a distance of  
14 48 least twenty-five feet horizontally separated from the  
14 49 basin.

14 50 (2) The drainage tile line shall be replaced with  
15 1 a nonperforated tile line under the basin floor. The  
15 2 nonperforated tile line shall not be a drainage tile  
15 3 line. There must be a minimum of three feet between  
15 4 the nonperforated tile line and the basin floor.

15 5 b. A written record of the investigation shall be  
15 6 submitted as part of the construction certification  
15 7 required under section 459A.207.

15 8 2. a. The settled open feedlot effluent basin  
15 9 shall be constructed with a minimum separation of two  
15 10 feet between the top of the liner of the basin and the  
15 11 seasonal high-water table.

15 12 b. If a drainage tile line around the perimeter of  
15 13 the basin is installed a minimum of two feet below the  
15 14 top of the basin liner to artificially lower the  
15 15 seasonal high-water table, the top of the basin's  
15 16 liner may be a maximum of four feet below the seasonal  
15 17 high-water table. The seasonal high-water table may  
15 18 be artificially lowered by gravity flow tile lines, a  
15 19 nongravity mechanical system that uses pumping  
15 20 equipment, or other similar system.

15 21 3. Drainage tile lines may be installed to  
15 22 artificially lower the seasonal high-water table at a

15 23 settled open feedlot effluent basin, if all of the  
15 24 following conditions are satisfied:

- 15 25 a. A device to allow monitoring of the water in  
15 26 the drainage tile lines and a device to allow shutoff  
15 27 of the flow in the drainage tile lines are installed,  
15 28 if the drainage tile lines do not have a surface  
15 29 outlet accessible on the property where the settled  
15 30 open feedlot effluent basin is located.
- 15 31 b. Drainage tile lines are installed horizontally  
15 32 at least twenty-five feet away from the settled open  
15 33 feedlot effluent basin. Drainage tile lines shall be  
15 34 placed in a vertical trench and encased in granular  
15 35 material which extends upward to the level of the  
15 36 seasonal high-water table.

- 15 37 4. A settled open feedlot effluent basin shall be  
15 38 constructed with at least four feet between the bottom  
15 39 of the basin and a bedrock formation.
- 15 40 5. A settled open feedlot effluent basin  
15 41 constructed on a floodplain or within a floodway of a  
15 42 river or stream shall comply with rules of the  
15 43 department.
- 15 44 6. The liner of a settled open feedlot effluent  
15 45 basin shall comply with all of the following:
  - 15 46 a. The liner shall comply with any of the  
15 47 following permeability standards:
    - 15 48 (1) The liner shall be constructed to have a  
15 49 percolation rate that shall not exceed one-sixteenth  
15 50 inch per day at the design depth of the basin as  
16 1 determined by percolation tests conducted by the  
16 2 professional engineer. If a clay soil liner is used,  
16 3 the liner shall be constructed with a minimum  
16 4 thickness of twelve inches or the minimum thickness  
16 5 necessary to comply with the percolation rate in this  
16 6 section, whichever is greater.
    - 16 7 (2) The liner shall be constructed at optimum  
16 8 moisture content not less than ninety-five percent of  
16 9 the maximum density as determined by a standard five=  
16 10 point proctor test performed at the site of the open  
16 11 feedlot operation by a professional engineer. If a  
16 12 clay soil liner is used, the liner shall be  
16 13 constructed with a minimum thickness of twelve inches.
    - 16 14 b. If a synthetic liner is used, the liner shall  
16 15 be installed to comply with the percolation rate  
16 16 required in this section.
  - 16 17 7. The owner of an open feedlot operation using a  
16 18 settled open feedlot effluent basin shall inspect the  
16 19 berms of the basin at least semiannually for evidence  
16 20 of erosion. If the inspection reveals erosion which  
16 21 may impact the basin's structural stability or the  
16 22 integrity of the basin's liner, the owner shall repair  
16 23 the berms.

16 24 Sec. 13. NEW SECTION. 459A.303 ALTERNATIVE  
16 25 TECHNOLOGY SYSTEMS.

16 26 In lieu of using a settled open feedlot effluent  
16 27 basin as provided in section 459A.302 to meet the open  
16 28 feedlot effluent control requirements of section  
16 29 459A.401, an open feedlot operation may use an  
16 30 alternative technology system for open feedlot  
16 31 effluent control.

- 16 32 1. The alternative technology system must provide  
16 33 an equivalent level of open feedlot effluent control  
16 34 as would be achieved by using a settled open feedlot  
16 35 effluent basin.
- 16 36 2. The department shall adopt rules establishing  
16 37 requirements for the construction and operation of  
16 38 alternative technology systems.
- 16 39 3. The owner of the open feedlot operation shall  
16 40 only use an alternative technology system which  
16 41 includes the installation of a water pollution  
16 42 monitoring system. The owner shall operate the water  
16 43 pollution monitoring system for two years after its  
16 44 installation. If the department requires the owner of  
16 45 the open feedlot operation to be issued an operating  
16 46 permit, the owner shall continue to record amounts of  
16 47 settled open feedlot effluent exiting the alternative  
16 48 technology system after the expiration of the two-year  
16 49 period pursuant to the terms and conditions of the  
16 50 operating permit. If the monitoring does not  
17 1 demonstrate compliance with the requirement of this  
17 2 section, the department may require an additional  
17 3 monitoring period.

17 4 SUBCHAPTER IV

17 5 OPEN FEEDLOT EFFLUENT CONTROL

17 6 Sec. 14. NEW SECTION. 459A.401 OPEN FEEDLOT  
17 7 EFFLUENT CONTROL METHODS.

17 8 An open feedlot operation shall provide for the  
17 9 management of open feedlot effluent by using an open  
17 10 feedlot effluent control method as follows:

17 11 1. All settleable solids from open feedlot  
17 12 effluent shall be removed prior to discharge into the  
17 13 waters of the state.

17 14 a. The settleable solids shall be removed by use  
17 15 of a solids settling facility. The construction of a  
17 16 solids settling facility is not required where  
17 17 existing site conditions provide for removal of  
17 18 settleable solids prior to discharge into the waters  
17 19 of the state.

17 20 b. The removal of settleable solids shall be  
17 21 deemed to have occurred when the velocity of flow of  
17 22 the open feedlot effluent has been reduced to less  
17 23 than point five feet per second for a minimum of five  
17 24 minutes. A solids settling facility shall have  
17 25 sufficient capacity to store settled solids between  
17 26 periods of land application and to provide required  
17 27 flow=velocity reduction for open feedlot effluent flow  
17 28 volumes resulting from a precipitation event of less  
17 29 intensity than a ten-year, one-hour frequency event.  
17 30 A solids settling facility which receives open feedlot  
17 31 effluent shall provide a minimum of one square foot of  
17 32 surface area for each eight cubic feet of open feedlot  
17 33 effluent per hour resulting from a ten-year, one-hour  
17 34 frequency precipitation event.

17 35 2. This subsection shall apply to an open feedlot  
17 36 operation which is required to be issued an operating  
17 37 permit.

17 38 a. An open feedlot operation may discharge open  
17 39 feedlot effluent into any waters of the United States  
17 40 due to a precipitation event, if any of the following  
17 41 apply:

17 42 (1) For an open feedlot operation that houses  
17 43 cattle, other than veal cattle, the operation is  
17 44 designed, constructed, operated, and maintained to not  
17 45 discharge open feedlot effluent resulting from a  
17 46 twenty-five-year, twenty-four-hour precipitation event  
17 47 into any waters of the United States.

17 48 (2) For an open feedlot operation that houses veal  
17 49 calves, swine, chickens, or turkeys, the operation is  
17 50 designed, constructed, operated, and maintained to not  
18 1 discharge open feedlot effluent resulting from a one=  
18 2 hundred-year, twenty-four-hour precipitation event  
18 3 into any waters of the United States.

18 4 b. If the open feedlot operation is designed,  
18 5 constructed, and operated in accordance with the  
18 6 requirements of an open feedlot effluent control  
18 7 system as provided in rules adopted by the department,  
18 8 the operation shall be deemed to be in compliance with  
18 9 this section, unless a discharge from the operation  
18 10 causes a violation of state water quality standards as  
18 11 provided in chapter 455B, division III.

18 12 3. The following shall apply to an open feedlot  
18 13 operation which has an animal unit capacity of one  
18 14 thousand animal units or more:

18 15 a. (1) The open feedlot operation shall not  
18 16 discharge open feedlot effluent from an open feedlot  
18 17 operation structure into any waters of the United  
18 18 States, unless the discharge is pursuant to an  
18 19 operating permit.

18 20 (2) The open feedlot operation shall not be  
18 21 required to be issued an operating permit if the  
18 22 operation does not discharge open feedlot effluent  
18 23 into any waters of the United States.

18 24 b. The control of open feedlot effluent  
18 25 originating from the open feedlot operation may be  
18 26 accomplished by the use of a solids settling facility,  
18 27 settled open feedlot effluent basin, alternative  
18 28 technology system, or any other open feedlot effluent  
18 29 control structure or practice approved by the  
18 30 department. The department may require the diversion  
18 31 of surface drainage prior to contact with an open  
18 32 feedlot operation structure. Solids shall be settled  
18 33 from open feedlot effluent before the effluent enters  
18 34 a settled open feedlot effluent basin or alternative

18 35 technology system.  
18 36 Sec. 15. NEW SECTION. 459A.402 OPEN FEEDLOT  
18 37 EFFLUENT CONTROL == ALTERNATIVE CONTROL PRACTICES.  
18 38 If because of topography or other factors related  
18 39 to the site of an open feedlot operation it is  
18 40 economically or physically impractical to comply with  
18 41 open feedlot effluent control requirements using an  
18 42 open feedlot control method in section 459A.401, the  
18 43 department shall allow the use of other open feedlot  
18 44 effluent control practices if those practices will  
18 45 provide an equivalent level of open feedlot effluent  
18 46 control that would be achieved by using an open  
18 47 feedlot effluent control method pursuant to section  
18 48 459A.401.

18 49 Sec. 16. NEW SECTION. 459A.410 EFFLUENT  
18 50 APPLICATION REQUIREMENTS.  
19 1 Open feedlot effluent shall be applied in a manner  
19 2 which does not cause surface water or groundwater  
19 3 pollution. Application in accordance with the  
19 4 provisions of state law, including this chapter, rules  
19 5 adopted pursuant to the provisions of state law,  
19 6 including this chapter, and guidelines adopted  
19 7 pursuant to this chapter, shall be deemed as  
19 8 compliance with this section.

19 9 Sec. 17. NEW SECTION. 459A.411 DISCONTINUANCE OF  
19 10 OPERATIONS.  
19 11 The owner of an open feedlot operation who  
19 12 discontinues the use of the operation shall remove all  
19 13 open feedlot effluent from related open feedlot  
19 14 operation structures used to store open feedlot  
19 15 effluent, as soon as practical but not later than six  
19 16 months following the date the open feedlot operation  
19 17 is discontinued.

#### 19 18 SUBCHAPTER V 19 19 ENFORCEMENT

19 20 Sec. 18. NEW SECTION. 459A.501 GENERAL.  
19 21 The department and the attorney general shall  
19 22 enforce the provisions of this chapter in the same  
19 23 manner as provided in chapter 455B, division I, unless  
19 24 otherwise provided in this chapter.

19 25 Sec. 19. NEW SECTION. 459A.502 VIOLATIONS ==  
19 26 CIVIL PENALTY.  
19 27 A person who violates this chapter shall be subject  
19 28 to a civil penalty which shall be established,  
19 29 assessed, and collected in the same manner as provided  
19 30 in section 455B.191. Any civil penalty collected and  
19 31 interest on a civil penalty shall be deposited in the  
19 32 animal agriculture compliance fund created in section  
19 33 459.401. A person shall not be subject to a penalty  
19 34 under this section and a penalty under section 459.603  
19 35 for the same violation.

#### 19 36 DIVISION II 19 37 CONFORMING AMENDMENTS

19 38 Sec. 20. Section 455B.103, subsections 3 and 4,  
19 39 Code 2005, are amended to read as follows:  
19 40 3. Contract, with the approval of the commission,  
19 41 with public agencies of this state to provide all  
19 42 laboratory, scientific field measurement and  
19 43 environmental quality evaluation services necessary to  
19 44 implement the provisions of this chapter, ~~and chapter~~  
19 45 ~~459, subchapters II and III and chapter 459A.~~ If the  
19 46 director finds that public agencies of this state  
19 47 cannot provide the laboratory, scientific field  
19 48 measurement and environmental evaluation services  
19 49 required by the department, the director may contract,  
19 50 with the approval of the commission, with any other  
20 1 public or private persons or agencies for such  
20 2 services or for scientific or technical services  
20 3 required to carry out the programs and services  
20 4 assigned to the department.  
20 5 4. Conduct investigations of complaints received  
20 6 directly or referred by the commission created in  
20 7 section 455A.6 or other investigations deemed  
20 8 necessary. While conducting an investigation, the  
20 9 director may enter at any reasonable time in and upon  
20 10 any private or public property to investigate any  
20 11 actual or possible violation of this chapter, ~~or~~  
20 12 ~~chapter 459, subchapters II and III, chapter 459A, or~~  
20 13 ~~the rules or standards adopted under this chapter, or~~  
20 14 ~~chapter 459, subchapters II and III or chapter 459A.~~  
20 15 However, the owner or person in charge shall be

20 16 notified.  
20 17 Sec. 21. Section 455B.103A, subsection 1,  
20 18 unnumbered paragraph 1, Code 2005, is amended to read  
20 19 as follows:  
20 20 If a permit is required pursuant to this chapter,  
20 21 ~~or~~ chapter 459, or chapter 459A for stormwater  
20 22 discharge or an air contaminant source and a facility  
20 23 to be permitted is representative of a class of  
20 24 facilities which could be described and conditioned by  
20 25 a single permit, the director may issue, modify, deny,  
20 26 or revoke a general permit for all of the following  
20 27 conditions:  
20 28 Sec. 22. Section 455B.103A, subsection 5, Code  
20 29 2005, is amended to read as follows:  
20 30 5. The enforcement provisions of division II of  
20 31 this chapter and chapter 459, subchapter II, apply to  
20 32 general permits for air contaminant sources. The  
20 33 enforcement provisions of division III, part 1, of  
20 34 this chapter, ~~and~~ chapter 459, subchapter III, ~~and~~  
20 35 chapter 459A apply to general permits for stormwater  
20 36 discharge.  
20 37 Sec. 23. Section 455B.105, subsections 3, 6, and  
20 38 8, Code 2005, are amended to read as follows:  
20 39 3. Adopt, modify, or repeal rules necessary to  
20 40 implement this chapter, ~~and~~ chapter 459, ~~and~~ chapter  
20 41 459A, and the rules deemed necessary for the effective  
20 42 administration of the department. When the commission  
20 43 proposes or adopts rules to implement a specific  
20 44 federal environmental program and the rules impose  
20 45 requirements more restrictive than the federal program  
20 46 being implemented requires, the commission shall  
20 47 identify in its notice of intended action or adopted  
20 48 rule preamble each rule that is more restrictive than  
20 49 the federal program requires and shall state the  
20 50 reasons for proposing or adopting the more restrictive  
21 1 requirement. In addition, the commission shall  
21 2 include with its reasoning a financial impact  
21 3 statement detailing the general impact upon the  
21 4 affected parties. It is the intent of the general  
21 5 assembly that the commission exercise strict oversight  
21 6 of the operations of the department. The rules shall  
21 7 include departmental policy relating to the disclosure  
21 8 of information on a violation or alleged violation of  
21 9 the rules, standards, permits or orders issued by the  
21 10 department and keeping of confidential information  
21 11 obtained by the department in the administration and  
21 12 enforcement of this chapter, ~~and~~ chapter 459, ~~and~~  
21 13 chapter 459A. Rules adopted by the executive  
21 14 committee before January 1, 1981, shall remain  
21 15 effective until modified or rescinded by action of the  
21 16 commission.  
21 17 6. Approve all contracts and agreements under this  
21 18 chapter, ~~and~~ chapter 459, ~~and~~ chapter 459A between the  
21 19 department and other public or private persons or  
21 20 agencies.  
21 21 8. Hold public hearings, except when the evidence  
21 22 to be received is confidential pursuant to this  
21 23 chapter, chapter 22, ~~or~~ chapter 459, or chapter 459A,  
21 24 necessary to carry out its powers and duties. The  
21 25 commission may issue subpoenas requiring the  
21 26 attendance of witnesses and the production of evidence  
21 27 pertinent to the hearings. A subpoena shall be issued  
21 28 and enforced in the same manner as provided in civil  
21 29 actions.  
21 30 Sec. 24. Section 455B.105, subsection 11,  
21 31 paragraph a, unnumbered paragraph 1, Code 2005, is  
21 32 amended to read as follows:  
21 33 Adopt, by rule, procedures and forms necessary to  
21 34 implement the provisions of this chapter, ~~and~~ chapter  
21 35 459, and chapter 459A relating to permits, conditional  
21 36 permits, and general permits. The commission may also  
21 37 adopt, by rule, a schedule of fees for permit and  
21 38 conditional permit applications and a schedule of fees  
21 39 which may be periodically assessed for administration  
21 40 of permits and conditional permits. In determining  
21 41 the fee schedules, the commission shall consider:  
21 42 Sec. 25. Section 455B.109, subsection 4, Code  
21 43 2005, is amended to read as follows:  
21 44 4. a. All Except as provided in paragraph "b",  
21 45 civil penalties assessed by the department and  
21 46 interest on the penalties shall be deposited in the

21 47 general fund of the state. ~~However, civil~~  
21 48 ~~b. The following provisions shall apply to animal~~  
21 49 ~~feeding operations:~~

21 50 ~~(1) Civil penalties assessed by the department and~~  
22 1 ~~interest on the civil penalties, arising out of~~  
22 2 ~~violations involving animal feeding operations under~~  
22 3 ~~chapter 459, subchapter II, shall be deposited in the~~  
22 4 ~~animal agriculture compliance fund as created in~~  
22 5 ~~section 459.401.~~

22 6 ~~(2) Civil penalties assessed by the department and~~  
22 7 ~~interest on the penalties arising out of violations~~  
22 8 ~~committed by animal feeding operations under chapter~~  
22 9 ~~459, subchapter III, which may be assessed pursuant to~~  
22 10 ~~section 455B.191 or 459.604, shall also be deposited~~  
22 11 ~~in the animal agriculture compliance fund.~~

22 12 ~~(3) Civil penalties assessed by the department and~~  
22 13 ~~interest on the civil penalties, arising out of~~  
22 14 ~~violations involving open feedlot operations under~~  
22 15 ~~chapter 459A, shall be deposited in the animal~~  
22 16 ~~agriculture compliance fund as created in section~~  
22 17 ~~459.401.~~

22 18 Sec. 26. Section 455B.111, subsection 1,  
22 19 paragraphs a and b, Code 2005, are amended to read as  
22 20 follows:

22 21 a. A person, including the state of Iowa, for  
22 22 violating any provision of this chapter; ~~or~~ chapter  
22 23 459, subchapters I, II, III, IV, and VI; ~~chapter~~  
22 24 ~~459A; or a rule adopted pursuant to this chapter; ~~or~~~~  
22 25 ~~chapter 459, subchapters I, II, III, IV, and VI; ~~or~~~~  
22 26 ~~chapter 459A.~~

22 27 b. The director, the commission, or any official  
22 28 or employee of the department where there is an  
22 29 alleged failure to perform any act or duty under this  
22 30 chapter; ~~or~~ chapter 459, subchapters I, II, III, IV,  
22 31 and VI; ~~chapter 459A; or a rule adopted pursuant to~~  
22 32 ~~this chapter; ~~or~~ chapter 459, subchapters I, II, III,~~  
22 33 ~~IV, and VI; ~~or~~ chapter 459A, which is not a~~  
22 34 ~~discretionary act or duty.~~

22 35 Sec. 27. Section 455B.111, subsection 5, Code  
22 36 2005, is amended to read as follows:

22 37 5. This section does not restrict any right under  
22 38 statutory or common law of a person or class of person  
22 39 to seek enforcement of provisions of this chapter; ~~or~~  
22 40 ~~chapter 459, subchapters I, II, III, IV, and VI; ~~or~~~~  
22 41 ~~chapter 459A; or a rule adopted pursuant to this~~  
22 42 ~~chapter; ~~or~~ chapter 459, subchapters I, II, III, IV,~~  
22 43 ~~and VI; ~~or~~ chapter 459A, or seek other relief~~  
22 44 ~~permitted under the law.~~

22 45 Sec. 28. Section 455B.112, Code 2005, is amended  
22 46 to read as follows:

22 47 455B.112 ACTIONS BY ATTORNEY GENERAL.  
22 48 In addition to the duty to commence legal  
22 49 proceedings at the request of the director or  
22 50 commission under this chapter; ~~or~~ chapter 459,  
23 1 ~~subchapters I, II, III, IV, and VI; ~~or~~ chapter 459A~~  
23 2 ~~the attorney general may institute civil or criminal~~  
23 3 ~~proceedings, including an action for injunction, to~~  
23 4 ~~enforce the provisions of this chapter; ~~or~~ chapter~~  
23 5 ~~459, subchapters I, II, III, IV, and VI; ~~or~~ chapter~~  
23 6 ~~459A including orders or permits issued or rules~~  
23 7 ~~adopted under this chapter; ~~or~~ chapter 459,~~  
23 8 ~~subchapters I, II, III, IV, and VI; ~~or~~ chapter 459A.~~

23 9 Sec. 29. Section 455B.113, subsection 1, Code  
23 10 2005, is amended to read as follows:

23 11 1. The director shall certify laboratories which  
23 12 perform laboratory analyses of samples required to be  
23 13 submitted by the department by this chapter; ~~or~~  
23 14 ~~chapter 459, subchapters I, II, III, IV, and VI; ~~or~~~~  
23 15 ~~chapter 459A, or by rules adopted in accordance with~~  
23 16 ~~this chapter; ~~or~~ chapter 459, subchapters I, II, III,~~  
23 17 ~~IV, and VI; ~~or~~ chapter 459A; or by permits or orders~~  
23 18 ~~issued under this chapter; ~~or~~ chapter 459, subchapters~~  
23 19 ~~I, II, III, IV, and VI; ~~or~~ chapter 459A.~~

23 20 Sec. 30. Section 455B.115, Code 2005, is amended  
23 21 to read as follows:

23 22 455B.115 ANALYSIS BY CERTIFIED LABORATORY  
23 23 REQUIRED.

23 24 Laboratory analysis of samples as required by this  
23 25 chapter; ~~or~~ chapter 459, subchapters I, II, III, IV,  
23 26 and VI; ~~or~~ chapter 459A; or by rules adopted, or by  
23 27 permits or orders issued pursuant to this chapter; ~~or~~

23 28 chapter 459, subchapters I, II, III, IV, and VI; ~~or~~  
23 29 ~~chapter 459A~~ shall be conducted by a laboratory  
23 30 certified by the director as having the necessary  
23 31 competence, equipment, and capabilities to perform the  
23 32 analysis. Analytical results from laboratories not  
23 33 certificated shall not be accepted by the director.

23 34 Sec. 31. Section 455B.179, Code 2005, is amended  
23 35 to read as follows:

23 36 455B.179 TRADE SECRETS PROTECTED.

23 37 Upon a satisfactory showing by any person to the  
23 38 director that public disclosure of any record, report,  
23 39 permit, permit application, or other document or  
23 40 information or part thereof would divulge methods or  
23 41 processes entitled to protection as a trade secret,  
23 42 any such record, report, permit, permit application,  
23 43 or other document or part thereof other than effluent  
23 44 data and analytical results of monitoring of public  
23 45 water supply systems, shall be accorded confidential  
23 46 treatment. Notwithstanding the provisions of chapter  
23 47 22, a person in connection with duties or employment  
23 48 by the department shall not make public any  
23 49 information accorded confidential status; however, any  
23 50 such record or other information accorded confidential  
24 1 status may be disclosed or transmitted to other  
24 2 officers, employees, or authorized representatives of  
24 3 this state or the United States concerned with  
24 4 carrying out this part of this division; ~~or~~ chapter  
24 5 459, subchapter III, ~~or chapter 459A~~; or when relevant  
24 6 in any proceeding under this part of this division; ~~or~~  
24 7 chapter 459, subchapter III; ~~or chapter 459A~~.

24 8 Sec. 32. Section 455B.182, Code 2005, is amended  
24 9 to read as follows:

24 10 455B.182 FAILURE CONSTITUTES CONTEMPT.

24 11 Failure to obey any order issued by the department  
24 12 with reference to a violation of this part of this  
24 13 division; ~~or~~ chapter 459, subchapter III; ~~or chapter~~  
24 14 ~~459A~~; or any rule promulgated or permit issued  
24 15 pursuant thereto shall constitute prima facie evidence  
24 16 of contempt. In such event the department may certify  
24 17 to the district court of the county in which such  
24 18 alleged disobedience occurred the fact of such  
24 19 failure. The district court after notice, as  
24 20 prescribed by the court, to the parties in interest  
24 21 shall then proceed to hear the matter and if it finds  
24 22 that the order was lawful and reasonable it shall  
24 23 order the party to comply with the order. If the  
24 24 person fails to comply with the court order, that  
24 25 person shall be guilty of contempt and shall be fined  
24 26 not to exceed five hundred dollars for each day that  
24 27 the person fails to comply with the court order. The  
24 28 penalties provided in this section shall be considered  
24 29 as additional to any penalty which may be imposed  
24 30 under the law relative to nuisances or any other  
24 31 statute relating to the pollution of any waters of the  
24 32 state or related to public water supply systems and a  
24 33 conviction under this section shall not be a bar to  
24 34 prosecution under any other penal statute.

24 35 Sec. 33. Section 455B.185, Code 2005, is amended  
24 36 to read as follows:

24 37 455B.185 DATA FROM DEPARTMENTS.

24 38 The commission and the director may request and  
24 39 receive from any department, division, board, bureau,  
24 40 commission, public body, or agency of the state, or of  
24 41 any political subdivision thereof, or from any  
24 42 organization, incorporated or unincorporated, which  
24 43 has for its object the control or use of any of the  
24 44 water resources of the state, such assistance and data  
24 45 as will enable the commission or the director to  
24 46 properly carry out their activities and effectuate the  
24 47 purposes of this part 1 of division III; ~~and~~ chapter  
24 48 459, subchapter III; ~~or chapter 459A~~. The department  
24 49 shall reimburse such agencies for special expense  
24 50 resulting from expenditures not normally a part of the  
25 1 operating expenses of any such agency.

25 2 Sec. 34. Section 459.102, subsection 2, paragraph  
25 3 a, Code 2005, is amended to read as follows:

25 4 a. A settled open feedlot effluent basin ~~that~~  
25 5 ~~collects and stores only precipitation-induced runoff~~  
25 6 ~~from an open feedlot as defined in section 459A.102.~~

25 7 Sec. 35. Section 459.102, subsections 37, 45, and  
25 8 46, Code 2005, are amended by striking the

25 9 subsections.  
25 10 Sec. 36. Section 459.401, subsection 2, paragraph  
25 11 a, subparagraph (5), Code 2005, is amended to read as  
25 12 follows:  
25 13 (5) The collection of civil penalties assessed by  
25 14 the department and interest on civil penalties,  
25 15 arising out of violations involving animal feeding  
25 16 operations as provided in sections 459.602, ~~and~~  
25 17 459.603, ~~and 459A.502.~~

25 18 Sec. 37. Section 459.309, Code 2005, is repealed.

25 19 DIVISION III  
25 20 AGRICULTURAL PRODUCTION LIENS

25 21 Sec. 38. Section 579A.2, subsection 3, paragraph  
25 22 b, Code 2005, is amended to read as follows:

25 23 b. The lien terminates one year after the cattle  
25 24 have left the custom cattle feedlot. ~~Section 554.9515~~  
~~25 25 shall not apply to a financing statement perfecting~~  
~~25 26 the lien.~~ The lien may be terminated by the custom  
25 27 cattle feedlot operator who files a termination  
25 28 statement as provided in chapter 554, article 9.

25 29 Sec. 39. Section 579B.4, subsection 1, paragraph  
25 30 b, Code 2005, is amended to read as follows:

25 31 b. For a lien arising out of producing a crop, the  
25 32 lien becomes effective the day that the crop is first  
25 33 planted. In order to perfect the lien, the contract  
25 34 producer must file a financing statement in the office  
25 35 of the secretary of state as provided in section  
25 36 554.9308. The contract producer must file a financing  
25 37 statement for the crop within forty-five days after  
25 38 the crop is first planted. The lien terminates one  
25 39 year after the crop is no longer under the authority  
25 40 of the contract producer. For purposes of this  
25 41 section, a crop is no longer under the authority of  
25 42 the contract producer when the crop or a warehouse  
25 43 receipt issued by a warehouse operator licensed under  
25 44 chapter 203C for grain from the crop is no longer  
25 45 under the custody or control of the contract producer.

~~25 46 Section 554.9515 shall not apply to a financing~~  
~~25 47 statement perfecting the lien.~~ The lien may be  
25 48 terminated by the contract producer who files a  
25 49 termination statement as provided in chapter 554,  
25 50 article 9.>

26 1 #2. Title page, line 1, by inserting after the  
26 2 words <relating to> the following: <agricultural  
26 3 production including>.

26 4 #3. Title page, line 2, by inserting after the  
26 5 word <operations,> the following: <and agricultural  
26 6 production liens,>.

26 7 #4. By renumbering as necessary.

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26 11 DAVID JOHNSON

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